

A U S T I N C I T Y C O U N C I L
AGENDA

Thursday, July 27, 2006

 + [Back](#) [Print](#)**Zoning and Neighborhood Plan Amendments
(Public Hearings and Possible Action)
RECOMMENDATION FOR COUNCIL ACTION****ITEM No. 131**

Subject: C14-06-0027 - 9804 FM 620 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 9804 North FM 620 Road (Lake Travis Watershed) from development reserve (DR) district zoning and single-family residence-standard lot (SF-2) district zoning to community commercial (GR) district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning with conditions. Applicant: Tommy Cain. Agent: Jim Bennett Consulting (Jim Bennett). City Staff: Wendy Walsh, 974-7719.

**Additional Backup
Material**

(click to open)

- ☐ [Saff Report](#)
- ☐ [Ordinance](#)

For More Information:

ZONING CHANGE REVIEW SHEET

CASE: C14-06-0027

Z.P.C. DATE: June 6, 2006

ADDRESS: 9804 North FM 620 Road

OWNER: Tommy J. Cain

AGENT: Jim Bennett Consulting
(Jim Bennett)

ZONING FROM: DR; SF-2

TO: GR

AREA: 4.655 acres

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant neighborhood commercial (LR) district zoning for Tract 1 and rural residence (RR) district zoning for Tract 2. The Restrictive Covenant includes all recommendations listed in the Traffic Impact Analysis memorandum, dated May 31, 2006, as provided in Attachment A.

ZONING & PLATTING COMMISSION RECOMMENDATION:

June 6, 2006: *APPROVED GR-CO DISTRICT ZONING, WITH RESTAURANT (GENERAL) AS THE ONLY GR USE, ALL OTHER LR USES; PROHIBIT SERVICE STATIONS; 150- FEET LANDSCAPE BUFFER ON THE WEST PROPERTY LINE; TRAFFIC IMPACT ANALYSIS INCLUDED.*

[M. HAWTHORNE, T. RABAGO 2ND] (9-0)

ISSUES:

The Applicant has discussed this case with the adjacent property owner to the north, as well as the Volente Neighborhood Association and the Parke Homeowners Association. Please refer to correspondence attached at the back of the Staff report.

DEPARTMENT COMMENTS:

The subject rezoning area consists of an unplatted tract that contains a single family residence and office space. The front portion of the tract is zoned single family residence, while the western portion is zoned development reserve (DR). The tract has direct access to FM 620, an arterial roadway and is situated between a single family residence to the north (SF-2; DR) and undeveloped land to the west and south (County). On the east side of FM 620, there is RV / Boat storage as well as mini-warehouses (SF-2), apartments (MF-1-CO; MF-2-CO) and a utility management company (P-CO). Please refer to Exhibits A (Zoning Map) and A-2 (Aerial).

The Applicant has future plans to develop the site with commercial uses that may include a 9,000 square foot shopping center and a 3,000 square foot fast food restaurant, and has requested community commercial (GR) district zoning.

With the exception of the commercial uses clustered at the intersection of FM 620 and Buckner Road and the retail sales general use (lawn furniture) in proximity to this site, this portion of the west side of FM 620 has limited development. Furthermore, although the property is located on a major arterial roadway, it is not located at an intersection. Staff supports non-residential land uses along FM 620, but is concerned that community commercial (GR) zoning would set a precedent for a significant depth (approximately 1,000 feet in this case) of more intense commercial zoning along the west side of FM 620 in areas that are not located at an intersection. For these reasons, the Staff recommends creating two tracts: neighborhood commercial (LR) district zoning for the tract fronting FM 620 (approximately 520 feet) and rural residence (RR) district zoning for the balance of the property (480 feet). This establishes a less intensive commercial district along FM 620 and a low density character for adjacent areas to the north, west and south.

EXISTING ZONING AND LAND USES:

| | ZONING | LAND USES |
|--------------|------------------------------|---|
| <i>Site</i> | DR; SF-2 | Single family residence; Office |
| <i>North</i> | DR; SF-2; N / A – County | One single family residence on large lot in Limited-purpose jurisdiction; Lawn furniture, Two single family residences on large lots; Boat sales; Auto repair; Pool sales – all in County |
| <i>South</i> | N/A – County | Undeveloped |
| <i>East</i> | MF-1-CO; P-CO; MF-2-CO; SF-2 | Apartments; Utility management company; RV / Boat Storage |
| <i>West</i> | N/A – County | Undeveloped |

AREA STUDY: N/A

TIA: Is required – Please refer to Attachment A

WATERSHED: Lake Travis

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY:

NEIGHBORHOOD ORGANIZATIONS:

157 – Courtyard Homeowner Assn. 275 – Volente Neighborhood Association
 426 – River Place Residential Community Assn., Inc.
 448 – Canyon Creek Homeowners Assn. 475 – Bull Creek Foundation
 654 – The Parke HOA
 965 – Old Spicewood Springs Rd. Neighborhood Assn.

SCHOOLS:

The subject property is within the Leander Independent School District.

CASE HISTORIES:

| NUMBER | REQUEST | COMMISSION | CITY COUNCIL |
|---------------------------------------|---------------|--|--|
| C14-04-0137 – Estates at Canyon Creek | I-RR to MF-1 | Approved Staff's recommendation of MF-1-CO zoning | Approved ZAP recommendation of MF-1-CO with the CO for 2,460 trips per day (11/4/04). |
| C14-04-0207 – Eco Resources | I-RR to P; GO | Approved P-CO for Tract 1; GO-CO for Tract 2; RR-CO for Tract 3. | Approved P-CO for Tract 1; GO-CO for Tract 2; RR-CO for Tract 3 (300 feet from east property line). The CO is for 2,000 trips, list of prohibited uses on Tract 1, prohibit access to Savannah Ridge Drive (3/3/05). |

RELATED CASES:

The property was annexed into the Limited Purpose Jurisdiction since November 1984. There are no related subdivision or site plan cases on the subject property.

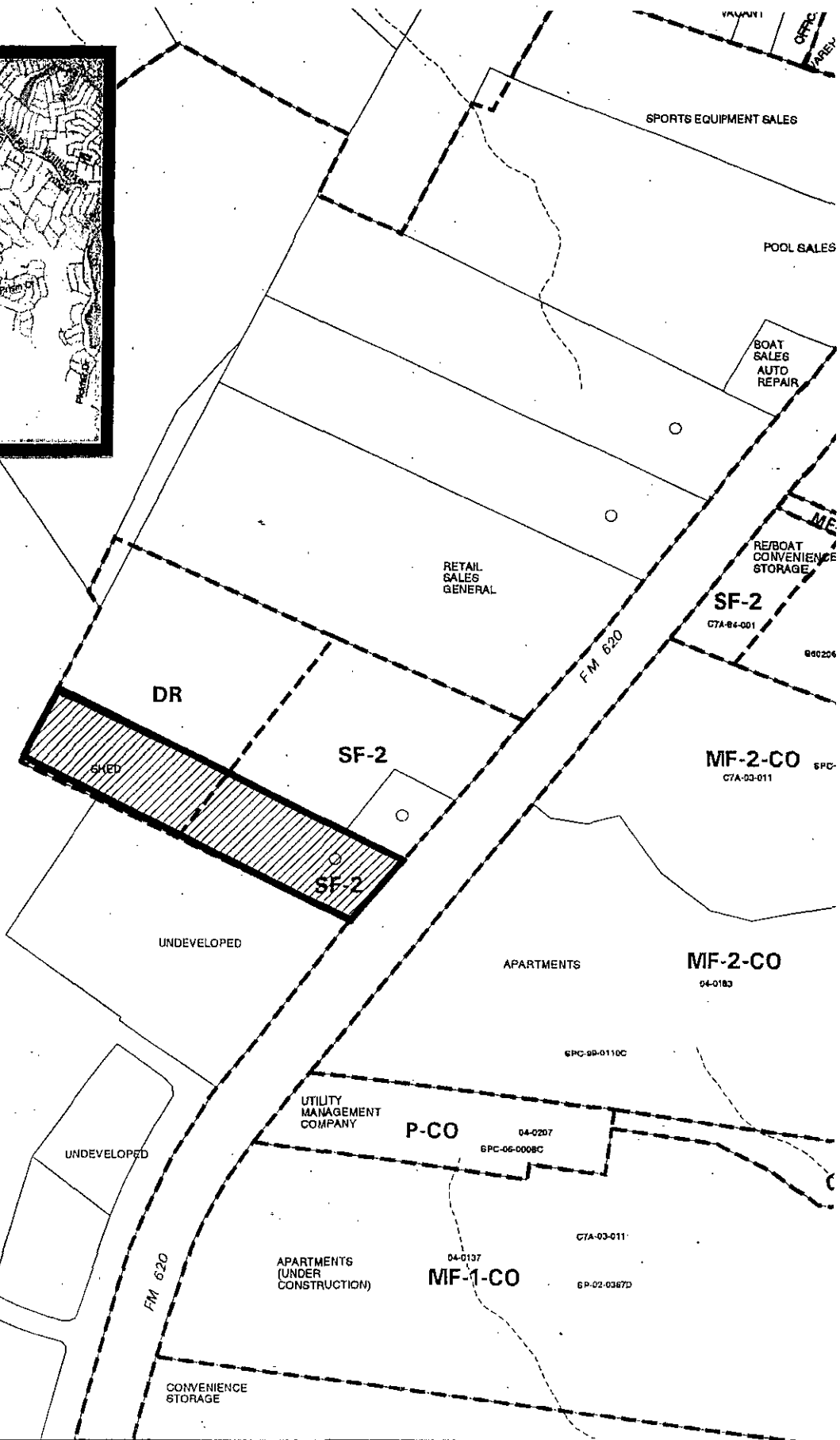
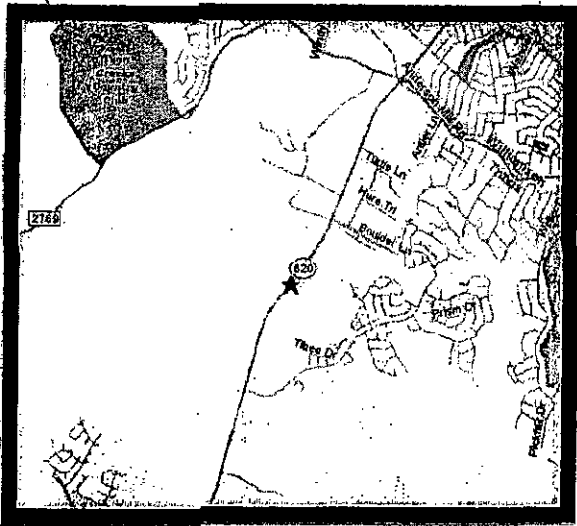
ABUTTING STREETS:

| Name | ROW | Pavement | Classification | Sidewalks | Bus Route | Bike Route |
|--------|----------|----------|----------------|-----------|-----------|------------|
| FM 620 | 173 feet | 64 feet | Major Arterial | No | No | No |

CITY COUNCIL DATE: July 27, 2006**ACTION:****ORDINANCE READINGS:** 1st2nd3rd**ORDINANCE NUMBER:**

CASE MANAGER: Wendy Walsh
e-mail: wendy.walsh@ci.austin.tx.us

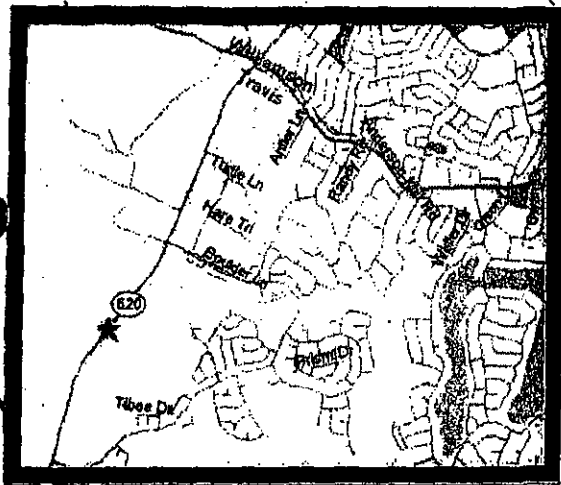
PHONE: 974-7719



| | | | | |
|---------------|---------------------|---|--------------------------|---|
| 1" = 400' | SUBJECT TRACT | ZONING EXHIBIT A | | CITY GRID REFERENCE NUMBER d37 |
| | PENDING CASE | | | |
| | ZONING BOUNDARY | CASE #: C14-06-0027 ADDRESS: 9804 N FM 620 RD SUBJECT AREA (acres): 4.655 | DATE: 06-07 INTLS: SM | |
| | CASE MGR: W.WALSH | | | |



North
Exhibit A-1



TRACT 2
RR ZONING-480'

TRACT 1
RR ZONING-520'
UNDEVELOPED

COUNTY

| | | | | |
|-----------------------|--------------------|----------------------|------------------|---|
| | SUBJECT TRACT | | ZONING Exhibit B | CITY GRID REFERENCE NUMBER d37 |
| | PENDING CASE | | | |
| | ZONING BOUNDARY | | | |
| | CASE MGR: W. WALSH | | | |
| | CASE #: | C14-06-0027 | | |
| ADDRESS: | 9804 N FM 620 RD | STAFF RECOMMENDATION | DATE: 06-05 | |
| SUBJECT AREA (acres): | 5 | INTLS: SM | | |



Date: May 31, 2006
To: Wendy Walsh, Case Manager
CC: Scott Feldman, Alliance Transportation Group
Reference: Briggs Tract TIA, C14-06-0027

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Briggs Tract, dated February 2006, prepared by Scott Feldman of Alliance Transportation Group and offers the following comments:

The Briggs Tract is a 5.018-acre development located in northwest Austin south of Anderson Mill Road.

The property is currently undeveloped and zoned Single Family (SF-2). The applicant has requested a zoning change to Community Commercial (GR) for the entire tract. The estimated completion of the project is expected in the year 2007.

TRIP GENERATION

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 2,908 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

| Table 1. Trip Generation | | | | |
|---------------------------------|-------------|--------------|----------------|----------------|
| LAND USE | Size | ADT | AM Peak | PM Peak |
| Shopping Center | 9,000sf | 1,332 | 37 | 84 |
| Fast Food with Drive-Thru | 3,000sf | 1,228 | 81 | 52 |
| Total | | 2,560 | 118 | 136 |

ASSUMPTIONS

- Background traffic volumes for 2006 included estimated traffic volumes for the following projects:
 - Plaza Volente SPC-03-0015C
 - Shops at Volente SP-04-0420D
 - Estates at Canyon Creek SP-02-0367D/C
 - Secured Climate Storage SP-03-0262D
- A growth rate of 1.5% was assumed for all roadways within the study area.

attachment a

3. Pass-by reductions were taken for the following uses:

| Land Use | Pass-By Reductions | |
|---------------------------|--------------------|-----|
| | AM | PM |
| Shopping Center | 0% | 34% |
| Fast Food with Drive Thru | 49% | 50% |

4. No reductions were taken for internal capture or transit use.

EXISTING AND PLANNED ROADWAYS

RM 620 – RM 620 forms the eastern boundary for this site and is currently constructed as a four-lane major undivided arterial. The Austin Metropolitan Area Transportation Plan calls for RM 620 to be a 6-lane expressway by 2025. Traffic volumes for RM 620 south of Anderson Mill Road were 30,000 vpd in 2004.

Buckner Road – This roadway is currently classified as a 2-lane collector and is located north of the subject tract.

Boulder Lane – Boulder Lane creates a loop on the east side of RM 620. This roadway intersects RM 620 north and south of the subject tract. Boulder Lane is classified as a 2-lane collector.

INTERSECTION LEVEL OF SERVICE (LOS)

The TIA analyzed 4 intersections, 3 of which are signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

| Table 3. Level of Service | | | | |
|---------------------------------------|---------------|----|------------------------|----|
| Intersection | 2006 Existing | | 2007 Site + Forecasted | |
| | AM | PM | AM | PM |
| RM 620 and Anderson Mill Road* | F | E | F | E |
| RM 620 and Boulder Lane/Buckner Road* | C | D | C | D |
| RM 620 and Boulder Lane* | B | B | B | B |
| RM 620 and Site Driveway | | | A | A |

*= SIGNALIZED

RECOMMENDATIONS

- 1) Final approval from the Texas Department of Transportation is required prior to scheduling this case for City Council.
- 2) The site driveway shall be designed with one inbound lane and two outbound lanes to accommodate a left turn lane and right turn lane.
- 3) Submittal of 2 copies of the final version of the TIA is required prior to 3rd Reading at City Council.

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- 4) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2628.



Amy Link
Sr. Planner ~ Transportation Review Staff
Watershed Protection and Development Review

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant neighborhood commercial (LR) district zoning for Tract 1 and rural residence (RR) district zoning for Tract 2. The Restrictive Covenant includes all recommendations listed in the Traffic Impact Analysis memorandum, dated May 31, 2006, as provided in Attachment A.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.*

The GR, Community Commercial district is intended for an office or other commercial use that serves neighborhood and community needs and is generally accessible from major traffic ways. *This property is accessible from FM 620, an arterial roadway.*

The LR, Neighborhood Commercial district is intended for shopping facilities that provide limited business services and offices to the residents of the neighborhood, such as consumer repair services, food sales, service stations, and pet services. The purpose statement listed in the City of Austin *Land Development Code* states: "The Neighborhood Commercial district is the designation for a commercial use that provides business service and office facilities for the residents of a neighborhood. Site development regulations and performance standards applicable to a LR district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment."

- 2. Zoning changes should promote compatibility with adjacent and nearby uses.*

With the exception of the commercial uses clustered at the intersection of FM 620 and Buckner Road and the retail sales general use (lawn furniture) in proximity to this site, this portion of the west side of FM 620 has limited development. Furthermore, although the property is located on a major arterial roadway, it is not located at an intersection. Staff supports non-residential land uses along FM 620, but is concerned that community commercial (GR) zoning would set a precedent for a significant depth (approximately 1,000 feet in this case) of more intense commercial zoning along the west side of FM 620 in areas that are not located at an intersection. For these reasons, the Staff recommends creating two tracts: neighborhood commercial (LR) district zoning for the tract fronting FM 620 (approximately 520 feet) and rural residence (RR) district zoning for the balance of the property (480 feet). This establishes a less intensive commercial district along FM 620 and a low density character for adjacent areas to the north, west and south.

EXISTING CONDITIONS

Site Characteristics

The site contains a single family residence and office use. The property slopes gently to the east and there appear to be no significant topographical constraints on the site.

Impervious Cover

The maximum impervious cover allowed by the GR or LR zoning district would be 25% which is based on the more restrictive watershed regulations outlined below.

Environmental

The site is located over the north Edward's Aquifer Recharge Zone. The site is in the Lake Travis Watershed of the Colorado River Basin, and is classified as a Water Supply Rural Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone. Under the current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

| <i>Development Classification</i> | <i>% of Net Site Area</i> | <i>% NSA with Transfers</i> | <i>Allowable Density</i> |
|-----------------------------------|---------------------------|-----------------------------|------------------------------|
| One or Two Family Residential | n/a | n/a | 1 unit/2 acres net site area |
| Multifamily Residential | 20% | 25% | n/a |
| Commercial | 20% | 25% | n/a |

Single family or duplex development within a Water Quality Transition Zone may not exceed a density of one unit per three acres, exclusive of land within a 100-year floodplain, and must have a minimum lot size of 2 acres.

According to flood plain maps, there is no flood plain in, or within close proximity of, the project location.

The site is located within the endangered species survey area and must comply with the requirements of Chapter 25-8 Endangered Species in conjunction with subdivision and/or site plan process.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code requirements.

Transportation

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA. [LDC, Sec. 25-6-142]. Comments are provided in Attachment A.

Water and Wastewater

The landowner intends to serve the site with water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades, and utility adjustment. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The water and wastewater utility construction must be inspected by the City. The landowner must pay the associated and applicable City fees.

Compatibility Standards

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

The site is subject to compatibility standards. Along the north property line, the following standards apply.

- No structure may be built within 25 feet of the property line.
 - No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
 - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
 - No parking or driveways are allowed within 25 feet of the property line.
 - In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.

- for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.

JOSEPH HOOVER COMPANY

REAL ESTATE INVESTMENTS

Thursday, December 08, 2005

Mr. Joseph Pantalion
Executive Director
Watershed Protection and Development Review Department
City of Austin
505 Barton Springs Road, 12th Floor
Austin, TX 78701

RE: Zoning application/9804 RR 620 North/Austin, Texas

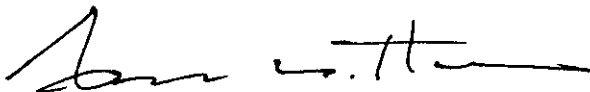
Dear Mr. Pantalion:

My company is representing Nootsie II Ltd., the owner of 11.73 acres, located adjacent to the above-referenced property. I understand that a rezoning application is being made for this property. A legal description of the property is attached for identification purposes.

I understand that the property currently has two different zonings: Single-Family Residential (SF-2) on the eastern portion, and Development Reserve (DR) on the western portion. I understand that the application is to change the zoning for the entire property to Community Commercial (GR).

On behalf of the General Partner of Nootsie II, Ltd., we have no objections to this rezoning of the property.

Sincerely,



Joseph R. Hoover
On behalf of:
Nootsie II, Ltd.

VOLENTE NEIGHBORHOOD ASSOCIATION
15406 FM 2769
VOLENTE, TEXAS 78641

Phone: 512 258-1114

13 December 2005

Joseph Pantalion, Executive Director
Watershed Protection and Development Review Department
City of Austin
505 Barton Spring Road, 12th Floor
Austin, Texas 78701

Re: Zoning Application for 9804 RR 620 North, Austin, Texas

Dear Mr. Pantalion:

I am the President of the Volente Neighborhood Association. I understand that a rezoning application is being made for the above property. A legal description of the property is attached for identification purposes.

I understand that the property currently has two different zonings: Single-Family Residential (SF-2) on the eastern portion, and Development Reserve (DR) on the western portion. I understand that the application is to change the zoning for the entire property to Community Commercial (GR).

The Volente Neighborhood Association has no objections to this rezoning of the property.

Sincerely,



Alan C. Blunt
President, Volente Neighborhood Association

Parke Homeowners Association
%Alliance Association Management Company
3355 Bee Caves Road Suite 510
Austin, Texas 78746

December 19, 2005

Joseph Pantalion, Executive Director
Watershed Protection and Development Review Department
City of Austin
505 Barton Springs Road, 12th Floor
Austin, Texas 78701

RE: Zoning application for 9804 RR 620 North, Austin, Texas

Dear Mr. Pantalion:

I am the President of the Parke Homeowners Association. I understand that a rezoning application is being made for the above property. A legal description of the property is attached for identification purposes.

I understand that the property currently has two different zonings: Single-Family Residential (SF-2) on the eastern portion, and Development Reserve (DR) on the western portion. I understand that the application is to change the zoning for the entire property to Community Commercial (GR).

The Parke Homeowners Association has no objections to this rezoning of the property.

Sincerely,



Elaine Burns
President
Parke Homeowners Association

- 11. Rezoning:** **C14-06-0096 - Legacy Oaks Christian School**
Location: 7915 Manchaca Road, South Boggy Creek Watershed
Owner/Applicant: Legacy Oaks Christian School (Charles Davenport)
Agent: Cowan-Wipff Consultants (Jeff Cowan)
Request: SF-2; SF-3 to GO-CO
Staff Rec.: **Recommended**
Staff: Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us
Neighborhood Planning and Zoning Department

APPROVED STAFF'S RECOMMENDATION FOR GO-CO ZONING; BY CONSENT.
[J.MARTINEZ; T.RABAGO 2ND] (9-0)

- 12. Rezoning:** **C14-06-0027 - 9804 FM 620**
Location: 9804 North FM 620 Road, Lake Travis Watershed
Owner/Applicant: Briggs Projects, L.L.C. (Tommy Cain)
Agent: Prossner & Associates, Inc. (Kurt M. Prossner)
Request: DR; SF-2 to GR
Staff Rec.: **Recommendation of LR; RR**
Staff: Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us
Neighborhood Planning and Zoning Department

APPROVED GR-CO ZONING; WITH RESTAURANT (GENERAL) AS THE ONLY GR USE, ALL OTHER LR USES; PROHIBIT SERVICE STATIONS; 150-FEET LANDSCAPE BUFFER ON THE WEST PROPERTY LINE; TRAFFIC IMPACT ANALYSIS INCLUDED.
[M.HAWTHORNE, T.RABAGO 2ND] (9-0)

SUMMARY

Wendy Walsh, staff, gave staff presentation.

Commissioner Jackson – What drove the original DR zoning on the back part of this lot?

Ms. Walsh – This zoning goes back to 1984, this is limited purpose annexed, so it hasn't been full purposed annexed. Back in 1984 they extended along 620 for a depth of 500-feet that did the SF-2. They may have been looking to establish a transition area between the 620 frontage and the remainder.

Commissioner Jackson – It just seems odd, there's no DR anywhere else out there. What was the rational for assigning RR for the back?

Ms. Walsh – The limited development that's present on the northwest and south. It's over an acre in size and is not located at an intersection for the LR on the front.

Commissioner Hawthorne – Isn't 620 limited by watershed rules, like 20%?

Ms. Walsh – Yes, this has some limited watershed, it is within the Lake Travis watershed and the maximum impervious cover here is quite limiting at 20%.

Jim Bennett, applicant – The staff's recommendation does not leave the applicant much for development, so we are requesting GR zoning on the entire tract and we can share some of the concerns of the staff. With not knowing the uncertainty of how the surrounding properties may be developed and we would offer a 150-foot landscape buffer on the rear portion of the property; and a conditional overlay that the only GR use permitted would be a restaurant; and all other LR uses with the exception of service stations, which would be prohibited. The adjoining property owners around us and they do not have any opposition to our request for zoning change; we talked to the two neighborhood associations most directly involved and they have no objections to the rezoning of the property.

Commissioner Hale – Asked for clarification on the applicant's request. Where's the nearest fast-food restaurant?

Mr. Bennett – I can't tell you.

Ms. Walsh – There's one located at FM 620 and 2222 to the South, it's a couple of miles away.

Commissioner Rabago – Does the neighborhood have any idea what type of development will go there; that they gave you the approval and support?

Mr. Bennett – I personally did not meet with the neighborhood associations, my engineer did and he explained to them that we were going to have a restaurant with a strip center for retail purposes and retail uses.

OPPOSITION

No Speakers.

Commissioner Baker and Hawthorne moved to close the public hearing.

Commissioner Hawthorne – I'll make a motion for GR-CO, the only permitted GR use will be restaurant general and all other permitted LR uses, except for service stations as a prohibited use, with a 150-foot landscape buffer along the rear property line.

Commissioner Rabago – Second.

Commissioner Hawthorne – And prohibit service stations.

Ms. Walsh – I'm assuming we're doing the traffic impact analysis?

Commissioner Hawthorne – Yes.

Motion carried. (9-0)

ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 9804 NORTH FM 620 ROAD FROM DEVELOPMENT RESERVE (DR) DISTRICT AND SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT TO COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from development reserve (DR) district and single family residence standard lot (SF-2) district to community commercial-conditional overlay (GR-CO) combining district on the property described in Zoning Case No. C14-06-0027, on file at the Neighborhood Planning and Zoning Department, as follows:

A 4.655 acre tract of land, more or less, out of the A.E. Livingston Survey Abstract No. 478, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as 9804 North FM 620 Road, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.

2. The following uses are conditional uses of the Property:

Community recreation (private)
Congregate living
Hospital services (limited)

Community recreation (public)
Group home (Class II)
Residential treatment

3. The following uses are prohibited uses of the Property:

Automotive rentals
Automotive sales
Bail bond services
Business support services
Communications services
Exterminating services
Funeral services
Hospital services (general)
Indoor entertainment
Off-site accessory parking
Outdoor sports and recreation
Personal improvement services
Service station

Automotive repair services
Automotive washing (of any type)
Business or trade school
Commercial off-street parking
Drop-off recycling collection facility
Food preparation
General retail sales (general)
Hotel-motel
Indoor sports and recreation
Outdoor entertainment
Pawn shop services
Research services
Theater

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the community commercial (GR) base district and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on _____, 2006.

PASSED AND APPROVED

_____, 2006

Will Wynn
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk

C14-06-0027

CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.

1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

EXHIBIT A

FIELD NOTE DESCRIPTION OF 4.655 ACRES OF LAND OUT OF THE A.E. LIVINGSTON SURVEY ABSTRACT No. 478 IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (5 ACRE) TRACT OF LAND AS CONVEYED TO CECIL L. BRIGGS BY DEED RECORDED IN VOLUME 3971 PAGE 1926 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, LESS THAT PORTION NOW LYING WITHIN THE RIGHT-OF-WAY OF F.M. HIGHWAY No. 620, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron pipe found for the Northwest corner of that certain (5 acre) tract of land as conveyed to Cecil L. Briggs by deed recorded in Volume 3971 Page 1926 of the Deed Records of Travis County, Texas, and for the Southwest corner of that certain (11.722 acre) tract of land as conveyed to Nootsie, Ltd. by deed recorded in Volume 11948 Page 4104 of the Real Property Records of Travis County, Texas, and being the Northwest corner and **PLACE OF BEGINNING** of the herein described tract;

THENCE with the common line of said Briggs (5 acre) tract and said Nootsie (11.722 acre) tract, S 63 deg. 17' 47" E 1014.62 ft. to a ½" iron rod found with a plastic cap imprinted with "D. Seelig" on the West right-of-way line of F.M. Highway No. 620 for the Northeast corner of this tract, and from which the record Northeast corner of said Briggs (5 acre) tract and the Southeast corner of said Nootsie (11.722 acre) tract being in the approximate centerline of F.M. Highway 620 bears S 63 deg. 17' 47" E 75.53 ft.;

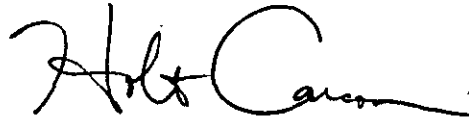
THENCE crossing the interior of said Briggs (5 acre) tract, S 40 deg. 18' 34" W 210.43 ft. to a ½" iron pipe found on the South line of said Briggs (5 acre) tract and for an angle corner of that certain (155.992 acre) tract of land as conveyed to Nootsie, Ltd. by deed recorded in Volume 11935 Page 1373 of the Real Property Records of Travis County, Texas, and being the Southeast corner of this tract, and from which the record Southeast corner of said Briggs (5 acre) tract bears S 63 deg. 15' 17" W 75.59 ft.;

THENCE with the common line of said Briggs (5 acre) tract and said Nootsie (155.992 acre) tract, N 63 deg. 15' 17" W 971.63 ft. to a ½" iron pipe found for the Southwest corner of said Briggs (5 acre) tract and for the most easterly Northeast corner of said Nootsie (155.992 acre) tract and being the Southwest corner of this tract;

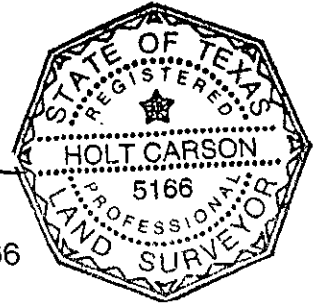
THENCE with the West line of said Briggs (5 acre) tract, the following two (2) courses;

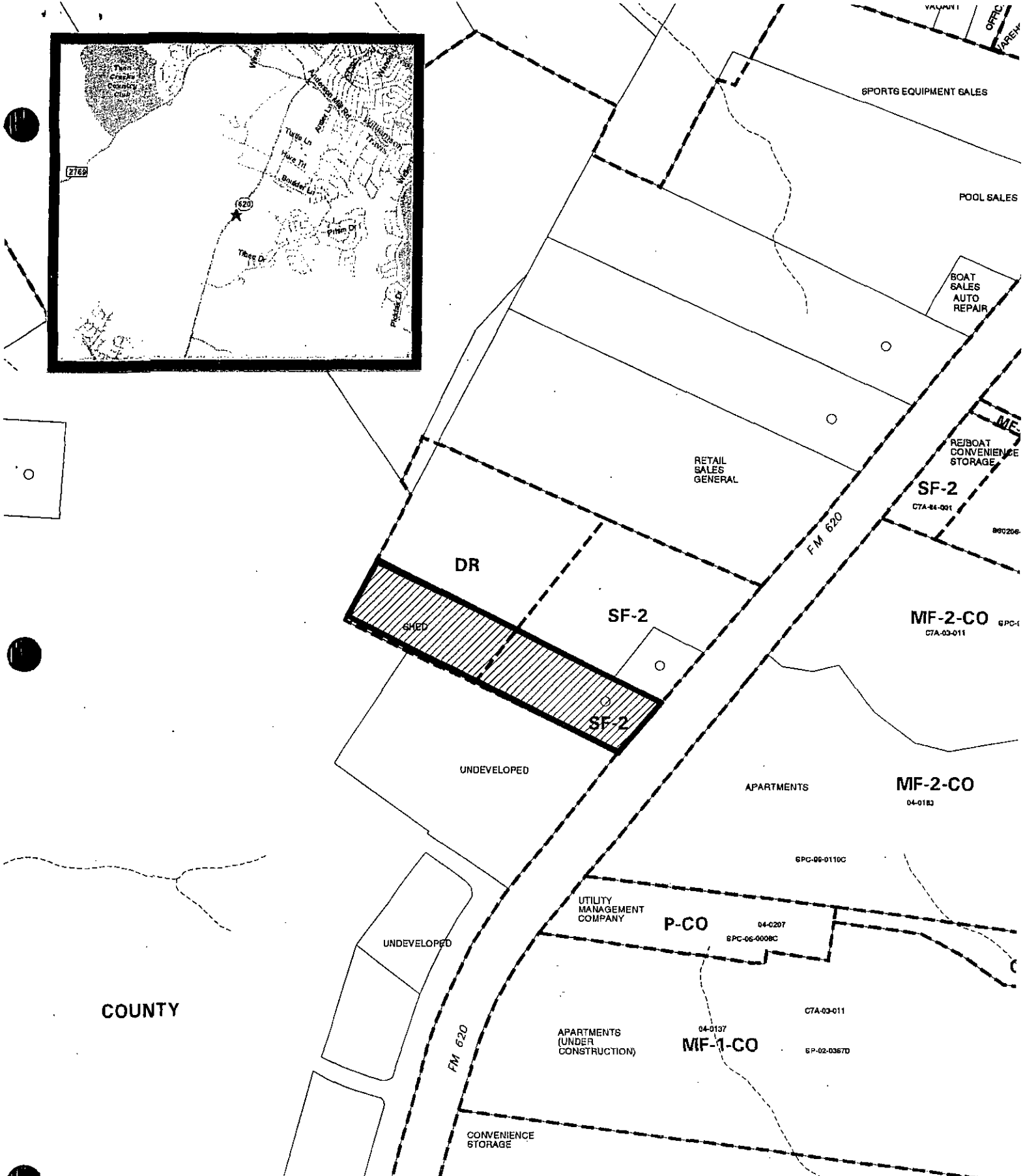
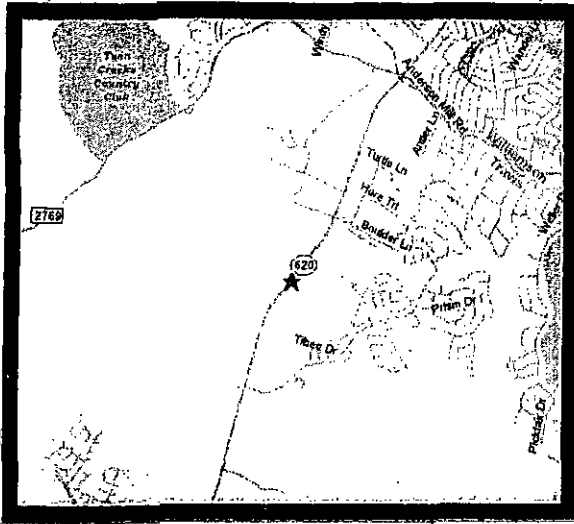
- 1) N 28 deg. 31' 54" E 197.50 ft. to a ½" iron rod found with a plastic cap imprinted with "D. Seelig";
- 2) N 28 deg. 37' 16" E 6.42 ft. to the **PLACE OF BEGINNING**, containing 4.655 acres of land.

PREPARED: February 28, 2006.



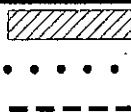
Holt Carson
Registered Professional Land Surveyor No. 5166





COUNTY

SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MGR: W.WALSH



CASE #: C14-06-0027
ADDRESS: 9804 N FM 620 RD
SUBJECT AREA (acres): 4.655

ZONING EXHIBIT B

DATE: 06-07

INTLS: SM

CITY GRID
REFERENCE
NUMBER
d37

1" = 400'

RESTRICTIVE COVENANT

OWNER: Tommy J. Cain

ADDRESS: 705 River Road, Austin, Texas 78734

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 4.655 acre tract of land, more or less, out of the A. E. Livingston Survey Abstract No. 478, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

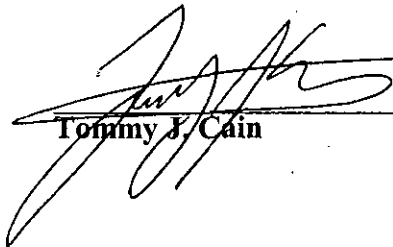
NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Transportation Group, dated February 2006, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated May 31, 2006. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 18th day of July, 2006.

OWNER:



Tommy J. Cain


APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

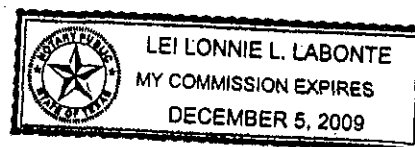
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 18th day of July, ~~2006~~ 2006, by Tommy J. Cain.



Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal



C14-06-0027

CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.

1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

EXHIBIT A

FIELD NOTE DESCRIPTION OF 4.655 ACRES OF LAND OUT OF THE A.E. LIVINGSTON SURVEY ABSTRACT No. 478 IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (5 ACRE) TRACT OF LAND AS CONVEYED TO CECIL L. BRIGGS BY DEED RECORDED IN VOLUME 3971 PAGE 1926 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, LESS THAT PORTION NOW LYING WITHIN THE RIGHT-OF-WAY OF F.M. HIGHWAY No. 620, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

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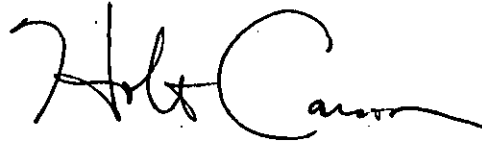
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Page 2 of 2
4.655 ACRES

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PREPARED: February 28, 2006.



Holt Carson
Registered Professional Land Surveyor No. 5166

